

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

L T. TUCKER, #132271,)	
Plaintiff,)	
)	No. 2:19-cv-175
-v-)	
)	Honorable Paul L. Maloney
D. CONNOR, <i>et al.</i> ,)	
Defendants.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Tucker is a prisoner subject to the three-strikes rule. Defendants filed a motion to revoke Tucker's *in forma pauperis* (IFP) status for this lawsuit. (ECF No. 20.) Defendants asserted Tucker's allegations of an imminent threat were conclusory and unsupported and were also contradicted by the evidence in the contemporaneously filed motion for summary judgment.

The magistrate judge issued a report recommending Defendants' motion to revoke IFP status be denied. (ECF No. 60.) The magistrate judge concluded the imminent danger exception to the three-strikes rule is subject to the notice-pleading requirement. The magistrate judge also concluded that Tucker met the pleading standard.

Defendants object. (ECF No. 64.) Defendants argue that the evidence in the record contradicts the allegations in Tucker's complaint.

Defendants' objection is overruled. In the first sentence where Defendants advance their objection, Defendants quote binding authority that the imminent danger exception requires "the prisoner to plausibly allege such a danger." (PageID.461.) Defendants'

objection asks the Court to ignore binding precedent and consider evidence that contradicts the allegation, rather than the allegation itself.

Accordingly, the Report and Recommendation (ECF No. 60) is **ADOPTED** as the Opinion of this Court. Defendants' motion to strike IFP status (ECF No. 20) is **DENIED**.

IT IS SO ORDERED.

Date: May 14, 2020

/s/ Paul L. Maloney

Paul L. Maloney
United States District Judge